

## **REMARKS**

### **Status of the Claims**

Claims 1-4, 12, 15-16, 18-28, 30, and 31 are currently amended. Claim 29 is cancelled. Claim 32 is new and is based on previously presented Claim 5 rewritten into independent form. Therefore with this amendment, Claims 1-5, 9-28, and 30-32 are currently pending. Claims 23-28 are allowed. The amendments and new claim do not introduce new matter into this application. Support for the amendments is found throughout the specification.

### **Claim Objections**

The Patent and Trademark Office ("PTO") objected to Claim 29 under 37 C.F.R. § 1.75 as being a substantial duplicate of Claim 1. Applicants assert that this objection is obviated by the cancellation of Claim 29 and respectfully request that the objection be withdrawn.

### **Rejections Based on Obviousness-Type Double Patenting**

Claims 1, 4, and 20-22 are *provisionally* rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 38-41 and 45 of co-pending Application No. 10/797,673. Applicants assert that this *provisional* rejection is obviated in view of the amendment to Claim 1 and respectfully request that the rejection be withdrawn.

### **Rejections Under 35 U.S.C. § 102**

Claims 1, 2, 4, 18-22, and 29-31 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,376,415 to McDaniel et al. ("*McDaniel '415*"). Regarding

Claims 1, 2, 4, 18-22, and 30, respectfully, this rejection is obviated. With regard to Claim 31, respectfully, the rejection is traversed. Claim 29 is canceled.

*McDaniel '415* discloses “[a] process to produce a catalyst composition, said process comprising contacting at least one organometal compound, at least one organoaluminum compound, and at least one treated solid oxide compound...” (Emphasis added). Claim 1, column 18, line 47, to column 19, line 57. See also *McDaniel '415* on column 1, lines 58-64; column 2, lines 54-62; and column 10, lines 18-34. *McDaniel '415* is silent with respect to a catalyst composition in the absence of an organoaluminum compound as defined therein. In view of the above amendments to Claims 1 and 30 (i.e., “wherein the catalyst composition is substantially free of an organoaluminum compound...”), the rejection is obviated. Claims 2, 4, and 18-22 depend from Claim 1. Applicants note that Claims 23-28 are allowed. Claim 31 is a process for polymerizing olefins employing the catalyst composition as defined by Claim 23. Thus, Claim 31 should likewise be allowable. Applicants also refer the PTO to paragraph 8, page 3, of the above-identified Final Office Action. Accordingly, Applicants respectfully request that the rejection of Claims 1, 2, 4, 18-22, and 29-31 under 35 U.S.C. § 102(b) in view of *McDaniel '415* be withdrawn.

Claims 1, 2, 4, 18-22, and 29-31 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,395,666 to *McDaniel et al.* (“*McDaniel '666*”). Regarding Claims 1, 2, 4, 18-22, and 30, respectfully, this rejection is obviated. With regard to Claim 31, respectfully, the rejection is traversed. Claim 29 is canceled.

*McDaniel '666* discloses “[a] process to produce a catalyst composition, said process comprising contacting respectively organometal compound, at least one organoaluminum compound, and a fluorided solid oxide compound...” (Emphasis added). Claim 1, column 21, line 15, to column 22, line 27. See also *McDaniel '666* on column 1, lines 62-67; column 2, lines 59-67; column 10, lines 16-31; and column 12, lines 54-57. *McDaniel '666* is silent with respect to a catalyst composition in the absence of organoaluminum. In view of the above amendments to Claims 1 and 30 (i.e., “wherein the catalyst composition is substantially free of an organoaluminum compound...”), the rejection is obviated. Claims 2,

4, and 18-22 depend from Claim 1. Applicants note that Claims 23-28 are allowed. Claim 31 is a process for polymerizing olefins which employs the catalyst composition as defined by Claim 23. Thus, Claim 31 should likewise be allowable. Applicants also refer the PTO to paragraph 8, page 3, of the above-identified Final Office Action. Accordingly, Applicants respectfully request that the rejection of Claims 1, 2, 4, 18-22, and 29-31 under 35 U.S.C. § 102(b) in view of *McDaniel* '666 be withdrawn.

Claims 1-4, 20-22, and 29-31 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,667,274 to Hawley et al. ("*Hawley*"). Regarding Claims 1, 2, 4, 18-22, and 30, respectfully, this rejection is obviated. With regard to Claim 31, respectfully, the rejection is traversed. Claim 29 is canceled.

*Hawley* discloses methods for producing a catalyst composition, including a "process comprising simultaneously contacting at least one treated solid oxide compound, at least one organometal compound, **at least one organoaluminum compound**, and at least one alpha olefin to produce the catalyst composition." (Emphasis added). Column 2, lines 62-67. See also *Hawley* on column 1, line 64, to column 2, line 18; column 2, lines 54-61; and column 12, lines 15-31. *Hawley* is silent with respect to a catalyst composition in the absence of organoaluminum. In view of the above amendments to Claims 1 and 30 (i.e., "wherein the catalyst composition is substantially free of an organoaluminum compound..."), the rejection is obviated. Claims 2, 4, and 18-22 depend from Claim 1. Applicants note that Claims 23-28 are allowed. Claim 31 is a process for polymerizing olefins which employs the catalyst composition as defined by Claim 23. Thus, Claim 31 should likewise be allowable. Applicants also refer the PTO to paragraph 8, page 3, of the above-identified Final Office Action. Accordingly, Applicants respectfully request that the rejection of Claims 1-4, 20-22 and 29-31 under 35 U.S.C. § 102(e) in view of *Hawley* be withdrawn.

### CONCLUSION

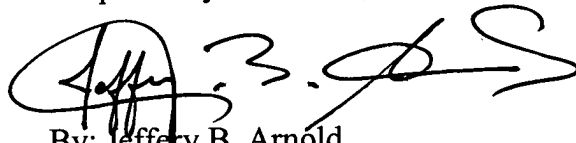
The foregoing is submitted as a full and complete Amendment and Response to the Final Office Action dated March 24, 2006. For at least the reasons given above, Applicants respectfully submit that Claims 1-5, 9-28, and 30-32 define patentable subject matter. Accordingly, Applicants request allowance of these claims.

This Amendment and Response is being filed within two (2) months of the final action, therefore Applicants request that an Advisory Action be issued in this case.

No fees are believed due, however, the Commissioner is hereby authorized to charge any deficiencies which may be required, or credit any overpayment to Deposit Account No. 09-0528.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is respectfully requested to contract Applicants' representative at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeffery B. Arnold', with a stylized flourish at the end.

By: Jeffery B. Arnold  
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